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10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 MICHAEL RENO, Individually and on)
14 behalf of others similarly situated,)

15 Plaintiff,)

16 vs.)

17 WESTERN CAB COMPANY, HELEN)
18 TOBMAN MARTIN, MARILYN)
19 TOBMAN MORAN, JANIE TOBMAN)
20 MOORE, MARTHA SARVER and)
21 "John Does" name fictitious, actual)
22 name and number unknown, et al.,)

23 Defendants.

Case No.:

COMPLAINT

24 MICHAEL RENO, individually and on behalf of others similarly situated, by
25 and through their attorneys, Leon Greenberg Professional Corporation, as and for a
26 Complaint against the defendants, states and alleges, as follows:

JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

27 1. This Court has jurisdiction over the claims alleged herein because Plaintiff
28 seeks relief pursuant to the Fair Labor Standards Act ("FLSA") for the Defendants'
failure to pay minimum wages as required by 29 U.S.C. § 201-218 et. seq. The
employment relationship alleged to exist between the parties is subject to the FLSA
because the defendants are properly deemed "employers" within the meaning of the
FLSA as they have in excess of \$500,000 in yearly revenue and the employment

1 alleged involved the use or handling of goods that have moved or were moving in
2 interstate commerce, as those terms are defined in the FLSA.

3 2. The Court has supplemental jurisdiction over the State Law claims alleged
4 herein pursuant to 28 U.S.C. § 1367(a).

5 3. The plaintiff, MICHAEL RENO, (the “individual plaintiff” or the
6 “named plaintiff”) is a resident of Clark County in the State of Nevada and is a former
7 employee of the defendants.

8 4. The defendant, WESTERN CAB COMPANY, (hereinafter referred to as
9 “Western Cab” or one of the “defendants”) is a corporation existing and established
10 pursuant to the laws of the State of Nevada with its principal place of business in the
11 County of Clark, State of Nevada and conducts business in Nevada.

12 5. Each of the defendants, HELEN TOBMAN MARTIN, MARILYN
13 TOBMAN MORAN, JANIE TOBMAN MOORE and MARTHA SARVER (the
14 “individual defendants”) are, for the purposes of the claims made herein under the Fair
15 Labor Standards Act, 29 U.S.C. § 201 et seq. (the “FLSA”), an employer of the named
16 plaintiff and the members of the putative plaintiff class as each has acted on behalf of
17 an employer and/or acted as an employer by willfully, intentionally, knowingly or
18 otherwise promoting, allowing, directing or otherwise creating the compensation
19 policies alleged herein that violate the FLSA, each such individual defendant also
20 exercising the power they had with the other defendant, Western Cab, by virtue of their
21 status as an officer and/or manager and/or owner and/or director of the same to
22 continue, create, or allow such policies to flourish and remain in existence. In addition,
23 defendants HELEN TOBMAN MARTIN and MARTHA SARVER, after close
24 examination by the United States Department of Labor, were deemed by that agency to
25 be employers for the purposes of the FLSA and on that basis are so alleged in this
26 action to be FLSA employers.

27 6. The defendants “John Does” are natural persons the number of such
28 persons, and their identities, being currently unknown to the plaintiff but known to the

1 defendants. Such persons are alleged to be liable to the plaintiff and those similarly
2 situated under the FLSA on the same basis as the individual defendants, in that such
3 persons have acted on behalf of an employer or as an employer in respect to the FLSA
4 violations alleged herein. Upon appropriate discovery being undertaken plaintiff
5 proposes to identify and properly name all such persons as defendants in this case in
6 respect to the FLSA claims made herein.

7 **CLASS ACTION AND COLLECTIVE ACTION ALLEGATIONS**

8 7. This is a class and collective action brought on behalf of all persons who
9 worked for the defendants within the last three years as taxi drivers in respect to the
10 FLSA claims made herein and within such other applicable statute of limitations that
11 governs the claims made under Nevada Law.

12 8. The class and collective action may include one or more sub-classes
13 consisting of the drivers directly employed by Western Cab, if the Court finds that
14 more manageable.

15 9. Upon information and belief, there are no collective bargaining
16 agreements applicable to the plaintiff and/or members of the proposed plaintiff class
17 which waive the provisions of Article 15, Section 16 of the Constitution of the State of
18 Nevada or any other protections afforded to employees by Nevada law.

19 10. The plaintiff brings this action as a class action pursuant to Fed. R. Civ. P.
20 §23 on behalf of themselves and a class of all similarly situated persons employed by
21 the defendant Western Cab in the State of Nevada.

22 11. The class of similarly situated persons for Fed. R. Civ. P. 23 purposes
23 consists of all persons employed by defendant Western Cab from December 13, 2012,
24 or commencing on such other date that is found applicable, and continuing until date of
25 judgment, such persons also being employed as taxi drivers by Western Cab such
26 employment involving the driving of taxi cabs for such defendant in the State of
27 Nevada.

28 12. A common circumstance of the taxi drivers giving rise to the Nevada state

1 law class action allegations and the Fair Labor Standards Act collective action
2 allegations is that while they were employed by defendants those taxi drivers were not
3 paid the minimum wage required by Nevada's Constitution, Article 15, Section 16 for
4 many or most of their work weeks that they worked in that their hourly compensation,
5 when calculated pursuant to the requirements of said Nevada Constitutional provision
6 and the FLSA did not equal at least the minimum hourly wage required by those laws.
7 An additional common circumstance is that for those taxi drivers employed by
8 defendants after March 23, 2018, they have been required to have their tips subjected to
9 an improper use by the defendants in violation of the FLSA.

10 13. Pursuant to Section 16(b) of the Fair Labor Standards Act (hereinafter
11 "FLSA"), the individual plaintiff brings this Complaint as a collective action (also
12 commonly referred to as an "opt-in" class), on behalf of themselves and all persons
13 similarly situated, to wit a putative class of taxi drivers employed by the defendants
14 during the three years prior to the filing of this Complaint until entry of judgment after
15 trial, such taxi drivers not being paid, on occasion, minimum wage in accordance with
16 the FLSA. This action is also brought on behalf of those taxi drivers employed by
17 defendants after March 23, 2018 who have been required to have their tips subjected to
18 an improper use by the defendants in violation of the FLSA. Such weeks of work
19 where defendants failed to pay such minimum wages are known to defendants who
20 possess the representative plaintiff's working time and compensation records and often
21 arose during slow periods of business for the Las Vegas taxi industry, the
22 representative plaintiff having experienced at least one such failure to pay minimum
23 wages during one or more weeks in the month of December during the three years
24 preceding the filing of this Complaint.

25 14. The failure of the defendants to pay minimum wages to the individual
26 plaintiff and the putative class and collective action members arises from defendants'
27 policy of forcing the individual plaintiff and those similarly situated to pay for the
28 gasoline needed to fuel Western Cab's taxicabs. Those payments for fuel made by the

1 individual plaintiff and those similarly situated were not reimbursed, at all, by the
2 defendants, or only partially reimbursed by the defendants, and after the cost of making
3 those payments is considered the individual plaintiff and those similarly situated were
4 earning less than \$7.25 an hour in wages during some weeks of their employment for
5 defendants.

6 15. Defendant Western Cab has admitted, via a sworn declaration of its
7 attorney, John T. Moran Jr., that its policy since at least February of 2012 is to require
8 that all of its taxi drivers pay for the fuel costs of Western Cab's taxi cabs from their
9 tips. *See*, Ex. "A" ¶ 9.

10 16. The named plaintiff is informed and believes, and based thereon alleges
11 that there are at least 100 putative class action members. The actual number of class
12 members is readily ascertainable by a review of the defendants' records through
13 appropriate discovery.

14 17. There is a well-defined community of interest in the questions of law and
15 fact affecting the class as a whole.

16 18. Proof of a common or single set of facts will establish the right of each
17 member of the class to recover. These common questions of law and fact predominate
18 over questions that affect only individual class members. The individual plaintiff's
19 claims are typical of those of the class.

20 19. A class action is superior to other available methods for the fair and
21 efficient adjudication of the controversy. Due to the typicality of the class members'
22 claims, the interests of judicial economy will be best served by adjudication of this
23 lawsuit as a class action. This type of case is uniquely well-suited for class treatment
24 since the employer's practices were uniform and the burden is on the employer to
25 establish that its method for compensating the class members complies with the
26 requirements of Nevada law and the FLSA.

27 20. The individual plaintiff will fairly and adequately represent the interests of
28 the class and has no interests that conflict with or are antagonistic to the interests of the

1 class and has retained to represent them competent counsel experienced in the
2 prosecution of class action cases and will thus be able to appropriately prosecute this
3 case on behalf of the class.

4 21. The individual plaintiff and his counsel are aware of their fiduciary
5 responsibilities to the members of the proposed class and are determined to diligently
6 discharge those duties by vigorously seeking the maximum possible recovery for all
7 members of the proposed class.

8 22. There is no plain, speedy, or adequate remedy other than by maintenance
9 of this class action. The prosecution of individual remedies by members of the class
10 will tend to establish inconsistent standards of conduct for the defendant and result in
11 the impairment of class members' rights and the disposition of their interests through
12 actions to which they were not parties. In addition, the class members' individual
13 claims are small in amount and they have no substantial ability to vindicate their rights,
14 and secure the assistance of competent counsel to do so, except by the prosecution of a
15 class action case.

16 **AS AND FOR A FIRST CLAIM FOR RELIEF ON BEHALF OF THE NAMED**
17 **PLAINTIFF AND ALL PERSONS SIMILARLY SITUATED PURSUANT TO**
18 **NEVADA'S CONSTITUTION AGAINST DEFENDANT WESTERN CAB**

19 23. The named plaintiff repeats all of the allegations previously made and
20 brings this First Claim for Relief pursuant to Article 15, Section 16, of the Nevada
21 Constitution against defendant Western Cab only.

22 24. Pursuant to Article 15, Section 16, of the Nevada Constitution the named
23 plaintiff and the class members were entitled to an hourly minimum wage for every
24 hour that they worked for defendant Western Cab and the named plaintiff and the class
25 members were often not paid such required minimum wages, in that for some of the
26 weeks they worked, the plaintiff's and the class members' wages did not equal either
the \$7.25 per hour or \$8.25 per hour required by the Nevada Constitution.

27 25. Western Cab's violation of Article 15, Section 16, of the Nevada
28 Constitution involved malicious and/or dishonest and/or oppressive conduct by the

1 defendant sufficient to warrant an award of punitive damages for the following,
2 amongst other reasons:

3 (a) Defendant despite having, and being aware of, an express obligation
4 under Article 15, Section 16, of the Nevada Constitution, such obligation
5 commencing no later than July 1, 2007, to advise the plaintiff and the class
6 members, in writing, of their entitlement to the minimum hourly wage
7 specified in such constitutional provision, failed to provide such written
8 advisement;

9
10 (b) Defendant was aware that the highest law enforcement officer of the
11 State of Nevada, the Nevada Attorney General, had issued a public
12 opinion in 2005 that Article 15, Section 16, of the Nevada Constitution,
13 upon its effective date, would require defendant and other employers of
14 taxi cab drivers to compensate such employees with the minimum hourly
15 wage specified in such constitutional provision. Defendant consciously
16 elected to ignore that opinion and not pay the minimum wage required by
17 Article 15, Section 16, of the Nevada Constitution to its taxi driver
18 employees in the hope that it would be successful, if legal action was
19 brought against it, in avoiding paying some or all of such minimum
20 wages;

21
22 (c) Defendant, to the extent it believed it had a colorable basis to
23 legitimately contest the applicability of Article 15, Section 16, of the
24 Nevada Constitution to its taxi driver employees, made no effort to seek
25 any judicial declaration of its obligation, or lack of obligation, under such
26 constitutional provision and to pay into an escrow fund any amounts it
27 disputed were so owed under that constitutional provision until such a
28 final judicial determination was made;

1 (d) Defendant maliciously created its policy of forcing payment of the fuel
2 costs of its taxicabs on its taxi drivers in a cash and “off the books”
3 fashion whereby those expenses did not appear on its payroll or other
4 records documenting the actual wages earned by its taxi drivers. It
5 implemented that policy to create a false appearance to anyone examining
6 its records, such as the United States Department of Labor, that it was in
7 compliance with the minimum wage standards applicable to its taxi drivers
8 when, in fact, it was violating those standards. Such violation of those
9 minimum wages standards arose because after considering the cost to the
10 taxi drivers of paying those fuel expenses such drivers were actually
11 earning less than the applicable minimum wage. Western Cab was aware
12 it was violating Nevada’s Law by engaging in that practice and failing to
13 pay minimum wages but continued to do so anyway.

14
15 26. Western Cab engaged in the acts and/or omissions detailed in paragraph
16 25 in an intentional scheme to maliciously, oppressively and dishonestly deprive its
17 taxi driver employees of the hourly minimum wages that were guaranteed to those
18 employees by Article 15, Section 16, of the Nevada Constitution. It so acted in the
19 hope that by the passage of time whatever rights such taxi driver employees had to
20 such minimum hourly wages owed to them by Western Cab would expire, in whole or
21 in part, by operation of law. Western Cab so acted consciously, willfully, and
22 intentionally to deprive such taxi driver employees of any knowledge that they might
23 be entitled to such minimum hourly wages, despite Western Cab’s obligation under
24 Article 15, Section 16, of the Nevada Constitution to advise such taxi driver employees
25 of their right to those minimum hourly wages. Western Cab’s malicious, oppressive
26 and dishonest conduct is also demonstrated by its failure to make any allowance to pay
27 such minimum hourly wages if they were found to be due, such as through an escrow
28 account, while seeking any judicial determination of their obligation to make those

1 payments.

2 27. The named plaintiff seeks all relief available to him and the alleged class
3 under Nevada's Constitution, Article 15, Section 16 including appropriate injunctive
4 and equitable relief to make Western Cab cease its violations of Nevada's Constitution
5 and a suitable award of punitive damages.

6 28. The named plaintiff on behalf of themselves and the proposed plaintiff
7 class members, seek, on this First Claim for Relief, a judgment against Western Cab for
8 minimum wages owed since December 14, 2012 and continuing into the future, such
9 sums to be determined based upon an accounting of the hours worked by, and wages
10 actually paid to, the plaintiff and the class members along with suitable injunction and
11 other equitable relief barring Western Cab from continuing to violate Nevada's
12 Constitution, a suitable award of punitive damages, and an award of attorneys' fees,
13 interest and costs, as provided for by Nevada's Constitution and other applicable laws.

14 **AS AND FOR A SECOND CLAIM FOR RELIEF PURSUANT TO THE**
15 **FAIR LABOR STANDARDS ACT AGAINST ALL DEFENDANTS**

16 29. The named plaintiff repeats all of the allegations previously made and
17 brings this Second Claim for Relief pursuant to 29 U.S.C. § 216(b) on behalf of
18 themselves and all persons who have filed, or will file, their written consents with the
19 Court to join this lawsuit and against all defendants including the individual
20 defendants.

21 30. Pursuant to the applicable provision of the FLSA, 29 U.S.C. § 206, the
22 named plaintiff and the members of the proposed plaintiff class were entitled to a
23 minimum hourly wage. The plaintiff and the members of the proposed plaintiff class
24 did not, during every work week, receive the minimum wage of at least \$7.25 an hour
25 required by Section 206 of the FLSA.

26 31. While employers under the FLSA can avail themselves of a "tip credit"
27 against its minimum wage, allowing them under certain circumstances to pay a
28 minimum hourly wage of less than \$7.25 an hour, defendants could not claim that tip

1 credit in respect to the plaintiff and those similarly situated. Defendants could not
2 claim such a “tip credit” because, as discussed *supra*, they failed to comply with 29
3 U.S.C. § 203(m) which requires that the tips plaintiff and those similarly situated
4 receive be completely retained by such employees and *not* be taken or used by their
5 employer for any purpose. They failed to comply with such requirement of the FLSA
6 by requiring, as demonstrated in Ex. “A” ¶ 9, that plaintiff and those similarly situated
7 use their tips to pay for the fuel costs incurred by Western Cab in operating its taxi
8 cabs. Such requirement rendered defendants ineligible to claim any tip credit under 29
9 U.S.C. § 203(m) and required that they pay the plaintiff and those similarly situated the
10 full FLSA minimum wage of at least \$7.25 an hour for every hour worked during every
11 work week.

12 32. Commencing March 23, 2018 the provisions of 29 U.S.C. § 203(m) were
13 amended to prohibit employers from using or taking any tips earned by their employees
14 for any purpose, even if the employee was earning a wage in excess of \$7.25 an hour.
15 Accordingly, in respect to those persons similarly situated to the named plaintiff
16 Michael Reno who worked on or after March 23, 2018, such persons are entitled to
17 collect from defendants the full amount of the fuel costs defendants forced such
18 persons to pay for Western Cab’s taxi cabs, and equal amount as liquidated damages,
19 pursuant to 29 U.S.C. § 216(b). That is because such forced payment of fuel costs
20 violated 29 U.S.C. § 203(m) as revised on March 23, 2018 as those costs were paid
21 from the tips of those persons, as documented in Ex. “A” ¶ 9, and constituted an
22 improper use or retention of employee tips by defendants in violation of the FLSA.

23 33. Defendants’ violations of the FLSA were willful and intentional. Those
24 willful and intentional violations of the FLSA are demonstrated, by among other
25 things, the defendants’ implementation of their policy in February of 2012 requiring
26 their taxi drivers to pay the fuel costs of Western Cab’s taxi cabs from their tips, Ex.
27 “A” ¶ 9. By implementing such policy they failed to both comply with the tip credit
28 provisions of 29 U.S.C. § 203(m) and pay the full \$7.25 an hour minimum wage

1 required by the FLSA, and effectuated such policy in response to action by the United
2 States Department of Labor (the “USDOL”). Specifically, they instituted that policy in
3 response to a prior audit and FLSA enforcement effort by the USDOL which resulted
4 in a payment by Western Cab in January of 2012 of over \$280,000 in unpaid FLSA
5 minimum wages to Western Cab taxi drivers as overseen by the USDOL. The
6 February 2012 policy of forcing taxi drivers to pay for the fuel costs of Western Cab’s
7 taxi cabs was intended to deceive the USDOL, and all other persons or government
8 agencies, into believing Western Cab was paying the minimum wage to its taxi driver
9 employees required by the FLSA. That belief was created by the fact that in examining
10 the payroll records of Western Cab, and the records of the hours of work of the
11 Western Cab taxi drivers, from February of 2012 and later, it appears that such cab
12 drivers were receiving at least the minimum hourly wage required by the FLSA. But
13 in fact, as Western Cab was aware of, or would have been aware of if it had made
14 reasonable efforts to understand the law, such records communicated a knowingly false
15 depiction of such FLSA compliance as (A) The amounts so paid by the taxi drivers for
16 fuel for Western Cab’s taxi cabs, which was not recorded on those payroll records,
17 must be deducted from the gross wages that Western Cab paid those taxi drivers in
18 determining if the FLSA minimum hourly wage has been paid, and after such
19 deduction was performed during certain work weeks the wages paid to such taxi
20 drivers were less than the minimum hourly wage required by the FLSA; and (B)
21 Forcing the taxi drivers to use their tips to pay for the fuel used by Western Cab’s taxi
22 cabs disallowed Western Cab’s claim that it was entitled to a tip credit under 29 U.S.C.
23 § 203(m) and as a result it had to pay the full \$7.25 an hour minimum wage required by
24 the FLSA, but such payroll records did not indicate that Western Cab could not claim
25 such a tip credit and only demonstrated FLSA minimum hourly wage compliance if
26 such a tip credit was available to Western Cab, which it was not.

27 34. The plaintiff, on behalf of themselves and all other similarly situated
28 persons who consent in writing to join this action, seeks, on this First Claim for Relief,

1 a judgment for unpaid minimum wages, and additional liquidated damages of 100% of
 2 any unpaid minimum wages, and for such persons similarly situated employed on or
 3 after March 23, 2018 the amount of fuel costs such persons were forced to pay since
 4 those costs constituted an improper taking of those persons' tips by the defendants in
 5 violation of the FLSA, along with an equal amount of liquidated damages, such sums
 6 to be determined based upon an accounting of the hours worked by the plaintiff and
 7 any such other persons who consent to join this action, and the wages they were paid
 8 and the fuel costs they were forced to pay, and the plaintiff also seeks an award of
 9 attorneys' fees, interest and costs as provided for by the FLSA.

10 **AS AND FOR A THIRD CLAIM FOR RELIEF PURSUANT TO NEVADA**
 11 **REVISED STATUTES § 608.040 ON BEHALF OF THE NAMED PLAINTIFF**
AND THE PUTATIVE CLASS AGAINST DEFENDANT BELL TRANS

12 35. Plaintiff repeats and reiterates each and every allegation previously made
 13 herein.

14 36. The named plaintiff brings this Third Claim for Relief against the defendant
 15 Western Cab pursuant to Nevada Revised Statutes § 608.040 on behalf of themselves
 16 and the alleged class of all similarly situated employees of the defendant Western Cab.

17 37. The named plaintiff has been separated from their employment with
 18 Western Cab prior to the filing of the instant action, and at the time of such separation
 19 was owed unpaid wages by the defendant Western Cab, including the unpaid minimum
 20 wages alleged herein.

21 38. Western Cab has failed and refused to pay the named plaintiff and numerous
 22 members of the putative plaintiff class who are the former employees of Western Cab
 23 their earned but unpaid wages, such conduct by Western Cab constituting a violation
 24 of Nevada Revised Statutes § 608.020, or § 608.030 and giving such named plaintiff
 25 and similarly situated members of the putative class of plaintiffs a claim against
 26 Western Cab for a continuation after the termination of their employment with
 27 Western Cab of the normal daily wages Western Cab would pay them, until such
 28 earned but unpaid wages are actually paid or for 30 days, whichever is less, pursuant to

1 Nevada Revised Statutes § 608.040.

2 39. As a result of the foregoing, the named plaintiff seeks on behalf of
3 themselves and the similarly situated putative plaintiff class members a judgment
4 against the defendant Western Cab for the wages owed to them and such class
5 members as prescribed by Nevada Revised Statutes § 608.040, to wit, for a sum equal
6 to up to thirty days wages, along with interest, costs and attorneys' fees.

7 WHEREFORE, plaintiff demands the relief on each cause of action as alleged
8 aforesaid. Plaintiff demands a trial by jury on all issues so triable.

9 Dated this 9th day of May, 2018

10 Leon Greenberg Professional Corporation

11 By: /s/ Leon Greenberg

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18 Attorney for Plaintiff
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CONSENT TO JOINDER

MICHAEL RENO, by signing
below, hereby consents to join this case as a plaintiff pursuant
to 29 U.S.C. 216(b).


MICHAEL RENO

EXHIBIT "A"

DECLARATION OF JOHN T. MORAN, JR.

Under penalties of perjury, John T. Moran, Jr. states as follows:

1. I am and for many years have been General Counsel for Western Cab Company ("Western Cab").

2. On March 26, 2012, Western Cab recognized the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (AFL-CIO/CLC) ("the Union") as the exclusive bargaining representative of Western Cab's taxi cab drivers. Western Cab maintains documents and information regarding its bargaining with the Union in the course of its regularly conducted business activity.

3. Western Cab was initially represented by Norman Kirshman in its negotiations with the Union. Attached hereto as Exhibit 3-A are Norman Kirshman's notes regarding the September 19, 2012 negotiations with the Union. These notes reflect that the Union was aware that the driver paid 100% of the gas.

4. Attached hereto as Exhibit 3-B is a memorandum of September 25, 2013 which Martha Sarver, the General Manager of Western Cab, distributed to all of Western Cab's then drivers to update them on the status of our negotiations with the Union.

5. In August 2013, Western Cab retained Greg Smith to represent it in negotiations with the Union. Attached hereto as Exhibit 3-C is a March 6, 2014 e-mail from Greg Smith to the Union informing the Union that the drivers keep their own gas receipts.

6. Attached hereto as Exhibit 3-D is an e-mail from Greg Smith to the Union dated May 22, 2014.

7. On June 10, 2015, I attended a bargaining session with Greg Smith and the Union. On that date, Greg presented the Union with Western Cab's latest contract proposal.

8. Attached as Exhibit 3-E is the cover page of Western Cab's contract proposal on June 10, 2015 and the excerpt on Article 18 Wages. As part of Western Cab's proposal on wages, Western Cab proposed in accordance with its practice since February 2012 that, "Every driver must, at the end of his shift, return his cab with verified full tank of gas and in good operational order."

9. My understanding is that Western Cab cannot make a unilateral change regarding wages without first bargaining with the Union. Western Cab has not changed its requirement that its drivers pay for their own gasoline out of their tips since this practice was first initiated in February 2012. Since June 10, 2015, the Union has not requested any further in person negotiations for a collective bargaining agreement.

10. When Greg Smith retired from the practice of law, Malani Kotchka became Western Cab's bargaining representative.

11. The National Labor Relations Board has never found that Western Cab violated the National Labor Relations Act regarding its requirement that their drivers return their cabs with a full tank of gas.

12. On June 7, 2017, on behalf of Western Cab, Malani Kotchka notified the Union that "Western Cab will contact or try to contact these drivers to inform them that it will pay them the back minimum wage which it has computed. Western Cab will make reasonable efforts to obtain acknowledgements of the payments to the drivers and will give them an opportunity to review records if the individual questions the amount calculated by Western Cab."

I declare under penalty of perjury of the law of the State of Nevada that the foregoing is
true and correct.

Dated 20 June, 2018

John T. Moran, Jr.

John T. Moran, Jr.